

APPROVED: Meeting No. 41-81

ATTEST: *June M. Beneyhan*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 38-81

November 9, 1981

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, on Monday, November 9, 1981, at 8:00 p.m.

PRESENT

Mayor William E. Hanna, Jr.

Councilman Steve Abrams

Councilwoman Phyllis Fordham

Councilman John Freeland

Councilman John Tyner

The Mayor in the Chair.

In attendance: City Attorney Roger Titus; City Manager Larry Blick; City Clerk Helen Meneghan; Director of Recreation and Park Ronald Olson; Assistant City Manager Daniel Hobbs; Budget Officer Anna Lee Berman; Director of Planning James M. Davis; Director of Finance John Lawton; Chief of Police Jared Stout

Re: City Manager's Report

Mr. Blick reported the following:

1. A building permit was issued for a 29,000 square foot building on the Red Gate industrial tract.

2. Mr. Al McArthur of the Montgomery County Executive's office has reviewed the County's regional swim center proposals and has asked that the staff look for other viable sites and evaluate them. He also asked that the Park and Planning Commission review the conditions that would be placed on the Wall Lane site.

3. Last Saturday, the Rockville Board of Appeals granted a special exception for the County's Board of Elections Supervisors to use Broome Junior High School until December 31, 1982, and the International School for Law Enforcement Training to use it until July 31, 1982.

Councilman Tyner said the first of the Six Enchanted evenings was held last week. He exhibited a tee shirt that is worn back stage for productions. Councilwoman Fordham agreed the concert was delightful and said she is so pleased it was brought to Rockville and complimented the work done and the great consultant work, most particularly from June Allen.

Re: Proclamation: November as
"Employer Support for Guard
and Reserve Month"

Proclamation No. 12-81

There being no objection from the Council, Mayor Hanna proceeded to issue proclamation No. 12-81, the full text of which can be found in Proclamation File No. 2 of the Mayor and Council, proclaiming November as "Employer Support for Guard and Reserve Month". Councilman Abrams read the proclamation at the request of the Mayor in which it was urged that all citizens acknowledge and honor the role of employers and reservists for the security and defense of this nation.

Re: Introduction of Ordinance:
To revise and amend appropriations ordinance No. 26-81, for Fiscal Year 1982

On motion of Councilman Tyner, there was introduced upon the table an ordinance revising and amending the appropriations ordinance for Fiscal Year 1982, said ordinance to lay over at least one week before final action is taken. Councilman Tyner explained that this is not a supplement to the appropriations but simply a reapportionment of funds.

Re: Adoption of Ordinance:
To amend Section 3-106(b) of Chapter 3 of the Laws of Rockville, entitled "Personnel Regulations", to authorize the establishment of career incentive plans

Ordinance No. 45-81

On motion of Councilwoman Fordham, duly seconded and unanimously passed, Ordinance No. 45-81, the full text of which can be found in Ordinance Book No. 10 of the Mayor and Council, amending Chapter 3 of the Personnel Regulations to authorize the establishment of a career incentive plan, was adopted by the Mayor and Council.

Re: City position on proposed amendment to Water Resources Planning Board Charter concerning voting rights

The Water Resources Planning Board (WRPB) of the Metropolitan Washington Council of Governments (COG) was established as the agency responsible under

Section 208 of the Federal Water Pollution Control Act as amended to prepare and adopt an areawide water quality management plan for the Washington Metropolitan area. The WRPB was set up under a charter which defines the role, responsibility, and work program requirements of the Board relative to the preparation of the plan and related water resources management planning and programming activities. Recently, the staff of the WRPB prepared a series of amendments to the charter which will have direct implications for Rockville's participation in the activities of the WRPB. Of the changes recommended by the staff, there are three areas of particular concern to the City as follows:

1. The majority of proportionate votes cast would decide all questions except amendments to the Charter which would require two-thirds (2/3) vote of those present and voting. Rockville's weighted vote was 4.17% of the total two-thirds vote. The amendment would lower Rockville's weighted vote to 1.22%; a decline of 2.95%

2. The new changes in this Section 5.02 would deny Rockville (or any other City or County which provides or approves plans for water supply and wastewater services) veto power on plans for water supply and would not result in rejection of the plans. But rather, the proposals would be forwarded to the Governor with the jurisdictions' reasons for disapproval, for final decisions on disputed elements.

In the past, Rockville has been the only jurisdiction to exercise this right of veto. The result of this action produced a compromise plan that was proved more equitable for all concerned.

3. Section 7.03. Amendments to the Charter, presently require an unanimous affirmative vote by the jurisdictions to any amendments to Section 5.02 and 7.03. The proposed amendment would call for a two-thirds vote by the local governments for the passage of an amendment.

The Planning staff recommends unconditional rejection of the Charter amendments.

Mayor Hanna noted it is necessary for the City to be able to retain its sovereignty. There have been attempts to work out a six state compact, but it is hard to do so. The Council continued the discussion.

On motion of Councilman Tyner, duly seconded and unanimously passed, the proposed amendment to the Planning Board Charter was unconditionally rejected by the Mayor and Council.

Re: Acquisition of art for
Fitzgerald Theatre Lobby

Eileen Mader, Chairman of the Cultural Arts Commission, introduced Ardyth Davis, an artist from Annandale, Virginia. She showed a sample of her

work which the commission is planning to purchase for the F. Scott Fitzgerald Theatre lobby. It consists of two painted wall reliefs for the alcove made of cotton duck painted with acrylic and sealed with varnish at a cost of \$1,200. The Mayor and Council approved the acquisition.

Re: Decision and instructions to staff re Text Amendment Application T-47-81, Paisano's, Washington Street, Applicant

The main purpose of the subject application is to remove the status of nonconformity from Paisano's Restaurant, thereby clearing the initial obstacle of correcting unauthorized expansions of that establishment. Councilwoman Fordham explained that the text amendment was proposed for a problem that is really a code violation. Granting it would work against the integrity of the Town Center Plan. Mayor Hanna agreed with her comments.

On motion of Councilwoman Fordham, duly seconded and unanimously passed, the staff was instructed to prepare the necessary legal documentation to deny the application.

Re: Decision and instructions to staff re Map Amendment Applications, M-30-81 and M-31-81, John and Bob, S. Adams Street, Applicant, requesting the extension of the Transitional Zone and the placement of 104 and 106 S. Adams St., in the Transitional Zone

Map Amendment Application M-30-81 seeks to place the properties at 104 and 106 South Adams Street in the Transitional District. Map Amendment Application M-31-81 seeks to rezone these properties from the R-90, One-Family Detached Residential Zone to the O-2, Transitional Office Zone. The Applicant has not indicated the intentions for use or reuse of these properties.

Councilman Tyner said he would prefer to see these denied since it would keep the Town Center Plan intact, to wait for an application that includes all five properties on that street. Councilwoman Fordham said she is concerned about the continued extension of the O-2 zone in the Town Center. There is a good deal of it now, but a critical shortage of housing exists and she hesitates to short change housing. Councilman Tyner reaffirmed the staff's suggestion that if the five properties on the street ever are rezoned O-2 a full cul-de-sac

would be necessary. Councilman Abrams said he concurs with most of the Planning Commission's statements. He would not like to see any piece meal rezoning in the community and he is not persuaded that the circumstances warrant O-2; however, he is not sure a cul-de-sac is the answer when and if the rezoning is ever considered. Mayor Hanna agreed with the previous statements and said to rezone at this time would amount to spot zoning and he does not agree with that. O-2 is meant to preserve properties but granting of these applications would leap frog the transitional district and that is not a basis for sound planning.

On motion of Councilman Tyner, duly seconded and unanimously passed, the staff was instructed to prepare the necessary resolutions to deny both applications.

The City Manager asked if the Mayor and Council would like to instruct the staff on the comprehensive zoning amendment referred to in the memo since the Planning Commission has asked the staff to do so. Mayor Hanna said it is not appropriate for the Mayor and Council to tell the Planning Commission what they can and cannot pursue. The Mayor and Council's action this evening would certainly show the pursuit of a comprehensive plan is not necessary, but the Mayor and Council is not issuing any orders. Councilwoman Fordham agreed and said it seems it would be a waste of staff time and little was said to encourage it.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council.

1. Phil Gerkin, 2315 Ring Street. Mr. Gerkin said he is a member of the ad hoc pro tem executive board of the Twinbrook Civic Association. On November 12 they will hold elections for a permanent board. He introduced Mark Barnett who would speak to the Council concerning Halpine Road in Twinbrook. Mr. Barnett told the Council that the area needs buffering and a visual area because of the buildings. There is such a condition in the use permits and it should be enforced.

2. Leo Smith, president of the East Rockville Citizens Association. Mr. Smith told the Council that he is concerned with the imposition of the historic district in his area. He has a petition signed by 215 people who feel the historic districting will be an unnecessary burden on the citizens who are already being impacted by Metro.

3. Michael Gordon, 207 Upton Street. Mr. Gordon thanked the Mayor and Council for its vote of support for the West End citizens by denying application M-30-81 and M-31-81.

4. Jennie Forehand. Delegate Forehand told the Mayor and Council that today the State Health Planning Board in Baltimore approved the obstetrical beds at Shady Grove Hospital making it a full service hospital.

5. John Brewer, president of the West End Citizens Association. Mr. Brewer thanked Councilman Tyner for attending the West End meeting and commended Paul Radauskas for his presentation of the City's inspection plan. He said that the association has no objection to the municipal infraction law, only its application, and it would seem that the City's main point is enforcement rather than stressing compliance. Mayor Hanna explained to Mr. Brewer that it is necessary for the law to be applied equally to all the homes in Rockville and there is no provision for exception for the older homes. Mr. Brewer said that if that is the case, he would prefer the compliance take place over a six to nine month period. Mayor Hanna said in order to bring the properties up to code and have the City looking well it should be done faster.

There being no other citizen wishing to address the Mayor and Council, the Mayor closed the citizen's forum portion of the meeting.

Re: Report from Task Force on the
formation of a non-profit senior
citizen corporation for operating
a senior citizen center

Since the Sr. Citizen Corporation Task Force was appointed, there have been three meetings to determine how the corporation would function to support the new senior citizen center. The following issues were discussed and resolved as follows:

1. Purpose of the Rockville Seniors Inc. (RSI)

A. It is the overall purpose of the corporation to insure that the quality of life for all Rockville senior citizens is improved through a properly supported Senior Citizen Center. It is felt that through creative operation of the corporation that the Senior Citizen Center could be self-supporting in the future. The corporation will strive to generate positive interest from the community to raise funds to maintain and improve the Senior Citizen Center.

B. The Corporation will enable businesses and citizens of Rockville to help senior citizens specifically. It will provide a means for persons to donate, bequeath, or give in any other way funds or other possessions to support the senior citizen programs.

The Task Force felt the following distinction should be made in relation to the generation of revenue to support the facility. Any programs or rental schemes generated by the city would result in those funds going

back into the city to support the operation of the center. Any programs or rental schemes generated by the corporation would result in those funds going back into the corporation.

Further, the Task Force feels that any funds raised by the corporation would be directed by it consistent with the purpose of the organization. Each year the corporation would submit a budget to the city setting forth how the corporation would direct its funds. The Task Force felt that unless extenuating circumstances existed, the corporation will not use funds to reimburse the city in order to fund center staff. However, the Task Force felt that the corporation would consider earmarking funds towards the other operating expenses inherent with the center; i.e., electricity, heating, maintenance, etc.

2. Rockville Seniors Inc., recommended board organizational structure:

The following representative structure is recommended for RSI. There should be a total of eleven board members on the corporation.

- 2 Senior Citizen Commission Members
- 3 Senior Citizens
- 1 Attorney
- 1 Accountant
- 1 Business Community (Chamber of Commerce) representative
- 3 At-large members

This report was presented to the Council by Jean Brady, Chairman of the Seniors Task Force. Councilman Tyner suggested the corporation consider earmarking some funds to contribute towards the utilities. Mrs. Brady said this could be done. The Mayor and Council proceeded to discuss at length the composition of the board and whether they should or should not be city residents and also how large the board should be. Since no agreement could be reached, the City Attorney was instructed to begin drafting the by-laws and after another meeting of the task force, a recommendation can be sent to the Council on a number for the board, whether it be 7, 9, or 11, and at that time the Mayor and Council can approve the plan.

Re: Work Session: West Montgomery
Task Force Report

The Mayor and Council conducted at work session on the task force's report on West Montgomery Avenue traffic and improvements. Carlos Caban, representing the Planning Commission, suggested to the Council that the public can make comments on the plan at the public hearing on the Historic District Master Plan which will be held in January. Mr. Michael Patterson, acting-chairman of the

Historic District Commission, told the Council that the Historic District Commission agrees with the task force's recommendation. Mr. Robert Weirich, Chairman of the Traffic and Transportation Commission, reiterated the concerns of the Traffic and Transportation Commission that have been forwarded to the Council. Mr. Henry Preisendorfer, Chairman of the Civic Improvement Advisory Commission, expressed concern about the public lighting and a uniform width of green strip on both sides of the street.

Mayor Hanna said the recommendations, ranging between 34 and 36 feet do not present a very large difference. The Planning Commission hearing will bring useful, additional comments.

Councilman Tyner said he would like the Mayor and Council to formally receive the report and take the report and comments and refer it all to the Planning Commission for deliberation during the hearing on Historic Preservation in the Master Plan. He said 1) he would like to accept the Traffic and Transportation's comments on the 34 feet width and left turns; 2) he would like the Traffic and Transportation Commission to look at the section of road way from Falls Road to Washington Street, since that would seem to be crucial; 3) he believes the signage on the road should be coordinated and consistent with the sign ordinance and Historic District Plan. Mayor Hanna asked that the other commissions present this evening send representatives to the Planning Commission hearing. Councilwoman Fordham also suggested that after this circumferential highway is completed, an eventual ban of truck traffic be considered on West Montgomery Avenue and that should be kept in mind when the Plan is being completed.

Councilman Tyner moved, duly seconded, that all the material be referred to the Planning Commission for their deliberation at the public hearing, and the Traffic and Transportation Commission look at the road way from Falls Road to Washington Street and consider the banning of trucks eventually. Mayor Hanna suggested that the funnel effect also be considered after the intersection of Route 28, where the road is wide and then there is a rapid narrowing that is hazardous. Councilman Tyner's motion passed unanimously. The Mayor thanked all the representatives for their presence this evening at the work session.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. American Legion, re color guard

2. ABC Aerobics, re class scheduling

Councilwoman Fordham said if the private services are offered at a good price, she does not know why the City is doing it. The private sector should do it. She asked the City Manager to bring back a staff report to include in it whether the City is comparable in price and service.

3. A.M. Wagman, re West Montgomery Task Force report

4. Twinbrook Elementary PTA, re thank you for City support

Re: Information Items

The Mayor and Council noted the following items of information:

1. Proposed amendment to the Master Plan
 2. Police report
 3. Copy of petition and letter to absentee landlord re neighborhood problem
 4. Copy of neighborhood complaint forwarded by County Executive
 5. Memo from City Attorney re filed suit
 6. Insert for EDC promotion packets
 7. Notice of meeting on racism and sexism
 8. Copy of letter to Chairman, HDC, re B&O station (from City Manager)
 9. Memo from Director of Public Works re Denham/Woodburn drainage
 10. Information on Church St. construction responding to citizen complaint
- Councilwoman Fordham asked that this information be forwarded to the Board at St. Marys. She asked for more information on the barricades referred to in the memo.
11. Traffic info responding to citizen complaint
 12. FY'82 Expenditure Report - first quarter
 13. Project report from CDHA
 14. Memo from City Manager re replacement performance for Baltimore Symphony

Councilman Tyner said the City should try and schedule the Richmond Symphony as a replacement for the Baltimore Symphony. Mayor Hanna disagreed and said he does not favor this replacement. It is not an equivalent replacement in reputation since it is very expensive. It should be a symphony that is recognized by the public. Councilwoman Fordham said she had heard that Paul Hume said it is a suitable replacement and should be added. She would like the staff to go back and see what else can be found and the quality of it. Councilman Abrams suggested that the staff look into the possibility of rebooking the Baltimore Symphony. Councilwoman Fordham commented that selling more tickets would decrease the deficit. The first year, all should be done to increase attendance. It was agreed that staff would get more information on the Richmond Symphony.

15. COG information on handgun legislation
16. MC/MML LAC report on redistricting

Re: New Business

1. The City Manager explained that the widening of North Washington Street is coming and asked for a suggestion for a date of the hearing. The Council agreed to December 14 as the date.

On motion of Councilman Abrams, there was introduced upon the table, an ordinance declaring a public hearing on December 14 for a Special Assessment Project for the widening of North Washington Street.

2. Councilwoman Fordham distributed information on a case study that paralleled the B&O station situation.
3. Mayor Hanna announced that on Monday, November 16, the Mayor and Council will conduct an executive session at 8 p.m. to discuss property disposition.
4. Mayor Hanna asked the Public Information officer to prepare an article on gun control and send it to the same papers as the letter written to the City concerning gun control to set the record straight. Councilman Abrams said he has prepared an amendment to state legislation for submission at the MML legislative conference.

Re: Approval of Minutes

On motion of Councilwoman Fordham, duly seconded and unanimously passed, the Minutes of Meeting No. 35-81, October 19, 1981, were approved as written.

Re: Adjournment

There being no further business to come before the Council in general session, the meeting was adjourned at 10:30 p.m. to convene again in executive session on Monday, November 16, 1981, at 8:00 p.m. or at the call of the Mayor.